A REMONSTRANCE OF THE DECLARATION

Of the Lords and Commons, now assembled in Parliament, 26 of *MAY*, 1642.

In answer to a DECLARATION under his Majesties Name concerning the businesse of *Hull*, sent in a Message to both Houses the 21 of *May*, 1642.

According to an Order made in the House of *Commons*, on Saturday last, I have examined this Copie with the Originall, and have mended it.
H. Elsyng. Cler. Parl. D. Com.

LONDON,
Printed for *Richard Lownds*, 1642.

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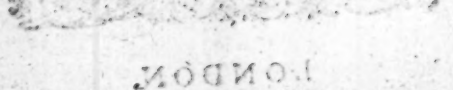
A REMONSTRANCE OF THE DECLARATION



The third Remonſtrance.

ALthough the great affaires of this Kingdome and the miſerable and bleeding condition of the Kingdome of *Ireland*, affords us little leaſure to ſpend our time in Declarations, and in Anſwers and Replyes, yet the Malignant party about His Majeſtie, taking all occaſions to multiply Calumnies upon the houſes of Parliament, and publiſh ſharp invectives under His Majeſties Name againſt them and their proceedings, a new Engine which they have invented to heighten the deſtructions of this Kingdome and to beget and increaſe diſtruſt and diſaffection betweene the King and his Parliament, and the People; We cannot be ſo much wanting of our Innocencie, or to the dutie of our Truſt, as not to cleere our ſelves from thoſe aſpertions and (which is our chiefeſt care) to diſabuſe the Peoples mindes, and open their eyes, that under the falſe ſhewes and pretexts of the Law of the Land and of their owne Rights and Liberties, they may not bee carried into the Roade way, that leadeth to the utter ruine and ſubverſion thereof. A late occaſion that theſe wicked ſpirits of diviſion have taken to defame, and indeed to arraigne the proceedings of both Houſes of Parliament, hath bin from our Votes of the 28. of *April*, and our Declaration concerning the buſineſſe of *Hull*, which becauſe we put forth, before we could ſend our An-

Iwer concerning that matter unto his Majesty, those mischievous Instruments of dissention, betweene the King, the Parliament and the people, whose chief labour and study is to misrepresent our Actions to his Majesty and to the Kingdome, would needs interpret this as an appeal to the people; and a declining of all Intercourse between his Majesty and us, as if wee thought it to no purpose toendevour any more to give him satisfaction, & without expecting any longer our answer, under the name of a Message from his Majesty to both Houses, they then selves have indeed made an Appeal to the people as the Message it selfe doth in a maner grant it to be, offering to joyn issue with us in that way, and in the nature thereof, doth cleerly shew it self to be no other, Therefore we shal likewise addresse our Answer to the Kingdom, not by way of Appeale as wee are charged) but to prevent them from being their own executioners, & from being perswaded under false colours of defending the Law, and their own Liberties to destroy both with their own hands, by taking their Lives, liberties, and estates, out of their hands whom they have chosen and entrusted therewith, and refining them up unto some evill Councellors about his Majestie, who can lay no other foundation of their own greatnesse, but upon the ruine of this, and in it of all Parliaments; and in them of the true Religion, and the freedome of this Nation. And these are the men that would perswade the people, that both Houses of Parliament containing all the Peeres, and representing all the Commons of England would destroy the Lawes of the Land and liberty of the people, wherein besides the trust of the whole, they themselves in their owne particulars, have so great an interest of honour and estate that we hope it will gain little credit, with any that have the least use of reason, that such as must have so great a share in the misery, should take so much paines in the procuring thereof and spend so much time, and runne so many hazards to make themselves slaves, and to destroy the property of their estates But that we may give particular satisfaction to the severall imputations cast upon us, we shal take them in order as they are laid upon us in that Message. First, wee are charged for the avowing of that Act of Sir *John Hotham*, which is termed unparalelled, and an high and unheard of Affront unto his Majesty, & as if we needed not to have done it, he being able, as he is alleaged, to produce no such command of the Houses of Parliament. Although Sir *John Hotham*

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had not an Order that did expreſſe every circumſtance of that caſe, yet hee might have produced an Order of both Houſes which did comprehend this Caſe, not onely in the cleere intention, but in the very words thereof, which knowing in our Conſciences to be ſo, and to be moſt neceſſary for the ſafetie of the Kingdome, we could not but in Honour and Juſtice avow that act of his, which we are confident will appeare to all the world to be ſo farre from being an Affront to the King, that it will be found to have beene an Act of great loyalty to his Majeſtie, and to his Kingdome.

The next charge upon us is, that in ſtead of giving His Majeſtie ſatisfaction, we publiſhed a Declaration concerning that buſineſſe, as an appeale to the people, and as if our intercourſe with his Majeſtie, and for his ſatisfaction, were now to no more purpoſe, which courſe is alledged to be very unagreeable to the modeſty and duty of former times, and not warrantable by any Preſidents, but what our ſelves have made. If the Penner of this Meſſage had expected a while, or had not expected, that two Houſes of Parliament, (eſpecially burthened as they are at this time with ſo many preſſing and urgent affaires) ſhould have moved as faſt as himſelfe, hee would not have ſaid that Declaration was inſtead of an Anſwer to His Majeſtie, which we did diſpatch with all the ſpeed and diligence we could, and have ſent it to His Majeſtie by a Committee of both Houſes, whereby it appeares that wee did it not upon that ground, that we thought it was no more, to any purpoſe to endeavour to give His Majeſty ſatisfaction. And as for the duty and modeſty of former times from which we are ſaid to have varied, and to want the warrant of any Preſidents therein, but what our ſelves have made: but if wee have made any Preſidents this Parliament, we have made them for poſterity, upon the ſame or better grounds of reaſon & Law then thoſe were upon which our Predeceſſors firſt made any for us, and as ſome preſidents ought not to be rules for us to follow; ſo none can be limits to bound our proceedings, which may and muſt vary according to the different condition of times, and for this particular of ſetting forth Declarations for the ſatisfaction of the People, who have choſen and entruſted us with all that is deareſt to them, if there be no example for it, it is becauſe there were never any ſuch Monſters before that, ever attempted to diſaffect the people from a Parliament, or could ever harbour a thought that it might be effected; were there ever ſuch practices to poyſon

the people with an ill apprehenſion of the Parliament, were there ever ſuch imputations and ſcandals laid upon the proceedings of both Houſes; were there ever ſo many, and ſo great breaches of priviledge of Parliament, were there ever ſo many, and ſo deſperate deſignes of force and violence againſt the Parliament, and the members thereof, If we have done more than ever our Anceſtors have done, we have ſuffered more than ever they have ſuffered, and yet in point of modeſty and duty we ſhall not yeeld to the beſt of former times, and we ſhall put this in iſſue, whether the higheſt and moſt unwarrantable precedents of any of His Majeſties Predeceſſors, doe not fall ſhort and much below what hath beene done unto us this Parliament; And on the other ſide, whether if we ſhould make the higheſt Preſidents of other Parliaments our patternes, there would be cauſe to complaine of want of modeſtie and duty in us, when we have not ſo much as ſuffered ſuch things to enter into our thoughts, which all the world knowes they have put in Act.

Another Charge which is laid very high upon us (and which were indeed a very great Crime if we were found guilty thereof) is that by avowing this Act of Sir *Iohn Hotham*, wee doe in Conſequence confound and deſtroy the title and Intereſt of all his Majeſties good ſubjects to their Lands and goods, and that upon this ground, That his Majeſtie hath the ſame title to his towne of *Hull* which any of his ſubjects have to their houſes or lands, and the ſame to his Magazin and Munition there, that any man hath to his money, plate, or Jewels, and therefore that they ought not to have beene diſpoſed of without or againſt his conſent, no more then the Houſe, land, money, plate, or Jewels, of any ſubject ought to be without or againſt his will.

Here that is laid downe for a Principle which would indeed pull up the very foundation of the Liberty, property and intereſt of every ſubject in particular, and of all the ſubjects in generall, if we ſhould admit it for a truth that his Majeſtie hath the ſame right & Title to his Towns and to his Magazin (bought with the publick moneys as we conceive that at Hull to have beene) that every particular man hath to his houſe, lands, and goods, for his Majeſties townes are no more his owne then his Kingdome is his owne, and his Kingdome is no more his own, then his people are his own, and if the King had a propriety in all his Townes what would become of the ſubjects propriety in their houſes therein and

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if he had a propriety in his Kingdome, what would become of the ſubjects propriety in their lands throughout the Kingdome, or of their liberties if his majeſtie had the ſame right in their perſons that every ſubject hath in their lands, or goods, and what ſhould become of all the ſubjects intereſt in the Townes and Forts of the Kingdome it ſelf, if his Majeſtie might ſell or give away, or diſpoſe of them at his pleaſure as a particular man may doe with his Lands and with his Goods. This erronious maxime being infuſed into Princes that their Kingdomes are their owne, and that they may doe with them what they will, (as if their Kingdomes were for them, and not they for their Kingdomes) is the Root of all the ſubjects miſery, and of the Invading of their juſt Rights and Liberties, whereas indeed they are only intruſted with their Kingdomes, and with their Towns, and with their people, and with the publique Treaſure of the Common-wealth, and whatſoever is bought therewith and by the knowne Law of this Kingdome the very Jewels of the Crown are not the Kings proper goods, but are only intruſted to him for the uſe and ornament thereof. As the Towns, Forts, Treaſure, Magazin, Offices and people of the Kingdome, and the whole Kingdome it ſelfe is intruſted unto him for the good and ſafty and beſt advantage thereof, and as this truſt is for the uſe of the Kingdome, ſo ought it to bee managed by the advice of the Houſes of Parliament, whom the Kingdome hath truſted for that purpoſe, it being their duty to ſee it be diſcharged according to the condition and true intent (thereof, and as much as in them lyes by all poſſible meanes to prevent the contrary, which if it hath bin their chiefe care and only Ayme in the diſpoſing of the Towne and Magazin of Hull in ſuch manner as they have done, they hope it will appeare clearely to all the world, that they have diſcharged their owne truſt, and not invaded that of his Majeſties, much leſſe his property which in this caſe they could not doe.

But admitting His Majeſtie had indeed had a propertie in the Towne and Magazine of *Hull*, who doubts but that a Parliament may diſpoſe of any thing wherin His Majeſtie or any Subject hath a right, in ſuch a way, as that the Kingdome may not be expoſed to hazard or danger thereby, which is our caſe in the diſpoſing of the Town and Magazine of *Hull*. And whereas his Majeſtie doth allow

low and this a great power to a Parliament, but in that sence only as he himselfe is a part thereof, wee appeale to every mans Conscience that hath observed our proceedings whether we disjoyned his Majesty from his Parliament, who have in all humble wayes sought his concurrence with us, as in this particular about *Hull*, and for the removeall of the Magazine there, so also in all other things, or whether these evill Counsels about him have not separated him from his Parliament, not onely in distance of place, but so in the discharge of this joynt trust with them for the peace and safety of the Kingdome in this and some other particulars.

We have given no occasion to his Majesty to declare his resolution with so much earnestnes, that hee wil not suffer either or both Houses by their Votes without or against his consent to enjoyn any thing that is forbidden by the Law, or to forbid any thing that is injoyned by the Law. For our Votes have done no such thing, and as we shall be very tender of the Law (which we acknowledge to be the safeguard & custody of all publick and private Interesses) so we shall never allow a few private persons about his Majesty, nor his Majesty himselfe in his owne Person and out of his Courts to be Judge of the Law, and that contrary to the judgment of the highest Court of Judicature: In like manner that his Majesty hath not refused to consent to any thing that might be for the peace and happines of the kingdome, we cannot admit it in any other sence, but as His Majestie taketh the measure of what will bee for the peace and happinesse of the kingdome from some few ill affected persons about him contrary to the advice and Judgement of His great Councell of Parliament. And because the Advice of both Houses of PARLIAMENT hath through the suggestions of evill Councellors been so much undervalued of late, and so absolutely rejected and refused, wee hold it fit to declare unto the Kingdome (whose honour and interest is so much concerned in it) what is the priviledge of the great Councell of Parliament herein, and what is the Obligation that lyeth upon the Kings of this Realme to passe such Bills as are offered unto them by both Houses of Parliament, in the name, and for the good of the whole kingdome whereunto they stand ingaged both in conscience and in justice to give their royall assent; In conscience, in respect of the Oath that is or ought to bee taken by the KINGS of this Realme at their CORONATION aswell to confirm by their Royall assent such good Lawes as their people shall choose,

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and to remedy by Law such inconveniences as the Kingdome may suffer, as to keep and protect the Lawes already in being as may appeare both by the forme of the Oath upon Record, and in bookes of good Authority, and by the Statute of the 25 of *Edw.* 3. entituled the Statute of Provisors of Benefices, the forme of which Oath, and the cause of that Statute concerning, are as followeth.

Forma juramenti soliti & consueti præstari, per Reges Angliæ in eorum Coronatione. Rot. Parl. 1. H. 4. N. 17. 2.

Servabis Ecclesiæ Dei, Cleroque & populo pacem ex integro & concordiam in Deo secundum vires tuas?

Respondebit, Servabo.

Facies fieri in omnibus judiciis tuis equam & rectam justitiam, & discretionem in misericordia & leuitate secundum vires tuas?

Respondebit, Faciam.

Concedis justas leges & consuetudines esse tenendas & permittis per te eas esse protegendas & ad honorem Dei corroborandas quas vulgus elegeris secundum vires tuas?

Respondebit, Concedo & permitto.

Adjiciuntur que prædictis interrogationibus quæ justa fuerunt, pernunciatisque omnibus confirmet Rex se omnia servaturum sacramento super altare præstito coram cunctis.

A Clause in the Preamble of a Statute made 25 *Edw.* 3. Entituled the Statute of Provisors of Benefices.

Whereupon the said Commons have prayed our said Lord the King, that sith the right of the Crown of *England*, and the Law of the said Realm is such, that upon the mischiefs and damages which happen to his Realm, he ought, and is bound by his Oath, with the accord of his people in his Parliament, thereof to make remedy and Law, and in removing the mischiefs and damages which thereof ensue, that it may please him thereupon to ordain remedy.

Our Lord the King seeing the mischiefs and damages before mentioned, and having regard to the said Statute, made in the time of his said Grandfather, and to the causes contained in the same, which Statute holdeth alwayes his force, and was never defeated, repealed, nor adnulled in any point, and by so much he is bounden by his Oath to cause the same to be kept as the Law of his Realm, though that by

sufferance and negligence it hath beene silence attempted to the contrary, also having regard to the grievous complaints made to him by his people in divers of his Parliaments holden heretofore, willing to ordaine remedy for the great damages and mischiefs which have happed, & daily do happen to the Chur. of *England*, by the said cause.

Here the Lords and Commons claime it directly as the right of the Crowne of *England*, and of the Law of the Land, and that the King is bound by his Oath, with the accord of his people in Parliament to make remedy and Law upon the mischiefs and damages which happen to this Realme, and the King doth not deny it; although he take occasion from a Statute formerly made by his Grandfather, which was layed as part of the grounds of this Petition, to fixe his Answer upon another branch of his Oath, and pertremits that which is claimed by the Lords and Commons, which he would not have done if it might have beene excepted against.

In Justice they are obliged thereunto in respect of the trust reposed in them, which is as well to preserve the Kingdome by the making of new Lawes where there shall be need, as by the observing of Lawes already made. A Kingdome being many times as much exposed to ruine for the want of a new Law, as by the violation of those that are in being, and this is so cleare a right, that no doubt his Majesty will acknowledge it to be as due unto his people as his protection; but how far forth he is obliged to follow the judgement of his Parliament therin, that is the question. And certainly besides the words in the Kings Oath, referring unto such Lawes as the people shall chuse, as in such things which concern the Publick Weale and good of the Kingdom they are the most proper Judges who are sent from the whole Kingdome for that very purpose, so we do not find that since Laws have passed by way of Bill (which are read thrice in both Houses and committed, and every part and circumstance of them fully weighed and debated upon the comitment, and afterwards passed in both Houses) that ever the Kings of this Realm did denie them otherwise then is expressed in that usuall Answer, *Le Roy s'avisera*, which signifies rather a suspension then a refusal of the Royal Assent, and in those other Lawes which are framed by way of Petitions of right, the houses of Parlia. have taken themselves to be so far Judges of the Rights claimed by them, that when the Kings Answer hath not in every point satisfied according to their desire, they have still insisted upon their claim, and never rested satisfied till such time as they had

had an answer according to their owne demand, as was done in the late Petition of Right, and in former times upon the like occasion, and if the Parliament be Judge between the King and his people in the Question of Right (as by the manner of the claime in Petitions of Right, and by Judgements in Parliament, in Cases of illegall Impositions and Taxes, & the like it appeareth to be) why should they not be so also in the question of the common good, and necessity of the Kingdome, wherein the Kingdome hath as cleere a right also to have the benefit and remedy of Law, as in any thing whatsoever, and yet we do not deny but in private Bills, and also in publick Acts of Grace, as Pardons and the like grants of favour, his Majesty may have a greater latitude of granting or denying as he shall think fit.

All this considered, we cannot but wonder that the Conceiver of this Message, should conceive the people of this land to be so void of common sence, as to enter into so deep a mistrust of those that they have, and his Majesty ought to repose so great a trust in, as to despaire of any security in their private Estates, by Discents, Purchases, Assurances, or Conveyances, unlesse his Majesty should by his Vote prevent the prejudice they might receive therein, by the Votes of both Houses of Parliament; As if they who are especially chosen and intrusted for that purpose, and who themselves must needs have so great a share in all grievances of the Subject, had wholly cast off all care of the Subjects good, and his Majesty had solely taken it up; And as if it could be imagined that they should by their Votes overthrow the rights of Discents, Purchases, or of any Conveyance or Assurance, in whose judgement the whole Kingdome hath placed all their particular Interesses, if any of them should be called in question in any of those Cases, and that (as knowing not where to place them with greater security) without any Appeale from them to any other person or Court whatsoever.

But indeed we are very much to seek how the case of *Hull* should conconcerne Discents, and Purchase, or Conveyances, and Assurances, unlesse it be in procuring more securitie to men in their private Interresses by the preservation of the whole from confusion and destruction, and much lesse doe wee understand how the Sovereigne Power was resisted and despised therein; Certainly no command from his Majesty, and his high Court of Parliament (where the Sovereigne power resides) was disobeyed by Sir *John Hotham*, nor yet was his Majesties Authority derived out of any other Court, nor by any legall Commission, or by any other way, wherein the Law hath appointed his

Majesties commands to be derived to his Subjects, and of what validity his verball Commands are, without any such stampe of his Authority upon them, and against the order of both Houses of Parliament, and whether the not submitting thereunto be a resisting and despising of the Soveraigne Authority, we leave it to all men to judge, that do at all understand the Government of the Kingdome.

We acknowledge that his Majesty hath made many expressions of his zeale and intentions against the desperate designes of Papists, but yet it is also as true, that the Counsels which have prevailed of late with him, have been little sutable to those expressions and intentions. For what doth more advance the open and bloudy designe of the Papists in *Ireland*, (whereon the secret plots of the Papists here, doe in likely-hood depend) than his Majesties absenting himselfe (in that manner that hee doth from his Parliament) and casting forth such sharp Invectives against them, notwithstanding all the humble Petitions, and other means which his Parliament hath addressed unto him for his return, and for his satisfaction concerning their proceedings. And what was more likely to give ayde to the designes of Papists (whereof there are so many in the North neare to the Towne of *Hull*) and of other malignant and ill-affected persons, which are ready to joyn with them, or to the attempts of forrainers from abroad, than the continuing of that great Magazin at *Hull* at this time, and contrary to the desire and advise of both Houses of Parliament; for that we have too much cause to believe that the Papists have still some way and meanes, whereby they have influence upon his Majesties Counsels for their own advantage.

For the Malignant party his Majesty needeth not a definition of the Law, nor yet a more full Character of them from both Houses of Parliament for to finde them out; if he will please onely to apply the Character that himselfe hath made of them to those unto whom it doth properly and truly belong, who are so much disaffected to the peace of the Kingdome, as they that endevour to disaffect his Majesty from the Houses of Parliament, and perswade him to bee at such a distance from them both in place and affection: Who are more disaffected to the government of the Kingdome, than such as lead his Majesty away from hearkening to his Parliament, which by the constitution of this Kingdome is his great and best Counsell, and perswade him to follow the malitious Counsells of some private men, in opposing and contradicting the wholsome advices, and just proceedings of that his most faithfull Coun-

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well as the highest Court? Who are they that not only neglect and despise, but labour to undermine the Law, under colour of maintaining of it? Are they that indeavour to destroy the fountaine and Conservatory of the Law, which is the Parliament? and who are they that set up other Rules for themselves to walke by then such as are according to Law, but they that will make other Judges of the Law, than the Law hath appointed, and so dispence with their obedience, to that which the Law calleth Authority, and to their determinations and resolutions to whom the Judgement doth appertaine by Law? For when private persons shall make the Law to be their Rule, according to their owne understandings, contrary to the judgement of those that are the competent Judges thereof, they set up unto themselves other Rules than the Law doth acknowledge: who these persons are none knoweth better than his Majesty himselfe. And if he will please to take all possible caution of them, as destructive to the Common-wealth and himselfe, and would remove them from about him, it would be the most effectuall meanes to compose all the distractions, and to cure the distempers of the Kingdome.

For the Lord *Digby* his Letter, we did not make mention of it as a ground to hinder his Majestie from visiting his owne Fort, but we appeale to the judgement of any indifferent man that shall read that Letter, and compare it with the posture that his Majestie hath did, and still doth stand in, towards the Parliament, and with the circumstances of that late action of his Majesty, in going to *Hull*, whether the Advisers of this Journey intended only a visit of that Fort, and Magazine, or all the wayes and overtures of accommodation, and the message of the 20 of January last, so often pressed, but still in vaine, as is alledged? Our Answer is, that although so often as the message of the 20 of January hath been so often pressed, so often have our priviledges been clearely infringed that a way and method of proceeding should be prescribed unto us, as well for the setling of his Majesties Revenue, as for the presenting of our owne desires (a thing which in former Parliaments hath alwayes been excepted against as a breach of priviledge) yet in respect of the matter contained in that message, and out of our earnest desire to beget a good understanding betweene his Majesty and us, we swallowed downe all matters of Circumstance, and had ere this time presented the chiefe of our desires to his Majesty, had we not been interrupted with continuall Denyalls even of those things that were necessary for our present security and subsistence, and had not those denyalls been followed with perpetu-

all Invectives against us and our proceedings, and had not those invectives beene heaped upon us so thicke one after another, (who were already in a manner wholly taken up with the pressing affaires of this Kingdome, and of the Kingdome of *Ireland*) that as wee had little encouragement from thence to hope for any good Answers to our desires, so we had not so much time left us to perfect them in such a manner as to offer them unto his Majesty.

Wee confesse it is a Resolution most worthy of a Prince, and of his Majesty, to shut his eares against any that would incline him to a civill Warre, and to abhor the very apprehension of it, but we cannot beleeve that mind to have been in them that came with his Majesty to the House of Commons, or in them that accompanied his Majesty to *Hampton* Court, and appeared in a warlike manner at *Kingston* upon Thames, or in divers of them that followed his Majesty now lately to *Hull*, or in them that after drew their Swords at *Yorke*, demanding who would bee for the King, nor in them that advised his Majesty to declare Sir *John Hotham* a Traytor before the Message was sent concerning that businesse to the Parliament, or to make propositions to the Gentlemen of the County of *Yorke*, to assist his Majesty to proceed against him in a way of force before he had, or possible could receive an Answer from the Parliament, to whom he had sent to demand Justice of them against Sir *John Hotham* for that fact, and if those malignant spirits shall ever force us to defend our Religion, the Kingdome, the Priviledges of Parliament, and the Rights and Liberties of the Subjects, with our Swords, the bloud and destruction that shall ensue thereupon, must bee wholly cast upon their Accompt, God and our owne Consciences tell us that we are cleare, and we doubt not but God and the whole world will cleare us therein.

For Captaine *Legg* we did not say that he was accused, or that there was any charge against him for the bringing up of the Army, but that hee was imployed in that businesse. And for that question concerning the Earle of *New Castle* mentioned by his Majesty, which is said to have bin asked long since, and that it is not easie to bee answered; Wee conceive that it is a question of more difficulty and harder to be answered: Why, when his Majesty held it necessary, upon the same grounds that first moved from the Houses of Parliament, That a Governour should be placed in that towne, Sir *John Hotham* a Gentleman of knowne Fortune and Integrity, and a person of whom both Houses of Parliament had expressed their confidence, should be refused by his Majesty, and the Earle of

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New-Castle (who by the way was so far moved in the business of the bringing up of the Army, that although there was not ground enough for a judiciall proceeding, yet there was ground of suspition, at least his reputation was not left so unblemished thereby, as that hee should bee thought the fittest man in *England* for that imployment of *Hull*) should be sent downe in a private way from his Majesty to take upon him that government, and why he should disguise himselfe under another name, when he came thither, as hee did. But whosoever shall consider, together with these circumstances, that of the time when Sir *Iohn Hotham* was first appointed by both Houses of Parliament to take upon him that imployment, which was presently after his Majesties comming to the House of Commons, and upon the retiring of himselfe to *Hampton Court*, and the L. *Digbies* assembling of Cavalierers at *Kingstone* upon *Thames*, will finde reason enough, why that Towne of *Hull* should bee committed rather to Sir *Iohn Hotham*, be the authority of both Houses of Parliament, than to the Earle of *New-Castle*, sent from his Majestie in that manner that he was; And for the power that Sir *Iohn Hotham* hath from the Houses of Parliament, the better it is known and understood, we are confident the more it will be approved of and justified; And as we doe not conceive that his Majesties refusall to have that Magazin removed could give any advantage against him to have it taken from him, and as no such thing is done, so wee cannot conceive for what other reason any should councell his Majestie not to suffer it to be removed, from the desire of both Houses of Parliament except it be that they had an intention to make use of it against them.

We did not except against those that presented a Petition to his Majestie at *Yorke* for the continuance of the Magazine at *Hull*, in respect of their condition, or in respect of their number, because they were meane persons, or because they were few; but because they being but a few, and there being so many more in the Countie of as good qualitie as themselves (who have by their Petition to his Majestie disavowed that Act of theirs) that they should take upon them the stile of all the Gentrie and Inhabitants of that Countie, and under that title should presume to interpose their advice, contrary to the Votes of both Houses of Parliament, and if it can be made to appeare that any of these Petitions that are said to have beene presented to the Houses of Parliament, and to have beene of a

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strange nature, were of such a nature as that we are confident that they were never received with our consent and approbation.

Whether there was an intention to deprive Sir *John Hotham* of his life, if his Majestie had beene admitted into *Hull*, and whether the information were such, as that he had ground to beleeve it, we will not bring it into question; for that was not, nor ought to have beene the ground for doing what he did, neither was the number of his Majesties Attendants, for being more or fewer, much considerable in this case: For although it be true, that if his Majestie had entred with twenty horse onely, hee might haply have found meanes for to have forced the entrance of the rest of his Traine, who being once in the Towne would not have beene long without Armes; yet that was not the ground that Sir *John Hotham* was to proceed upon, but upon the admittance of the King into the Towne at all, so as to deliver up the Towne and Magazin unto him, and to whomsoever hee should give the command thereof, without the knowledge and consent of both Houses of Parliament, by whom he was entrusted to the contrary; and his Majestie having declared that to be his intention concerning the Towne, in a Message that hee sent to the Parliament not long before hee went to *Hull*, saying, That hee did not doubt but that Towne should bee delivered up to him, whensoever hee pleased, as supposing it to bee kept against him: and in the like manner concerning his Magazine, in his Message of the foure and twentieth of *April*, wherein it is expressed, that his Majestie went thither with a purpose to take into his hands the Magazine, and to dispose of it in such manner as hee should thinke fit: upon these termes Sir *John Hotham* could not have admitted his Majestie, and have made good his trust to the Parliament, though his Majestie would have entred alone, without any Attendance at all of his owne, or of the Prince, or Duke, his sonnes; which we doe not wish to be lesse than they are in their number, but could heartily wish that they were generally better in their conditions.

In the close of this Message, his Majestie states the case of *Hull*, and thereupon inferreth, that the Act of Sir *John Hotham* was levying of warre against the King, and consequently that it was no lesse than high Treason, by the Letter of the Statutes of 25 *Edw.* 3. *Cap.* 2. unlesse the sense of that Statute be very far differing from the Letter thereof.

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In the stating of this Case divers particulars may be observed, wherein it is not rightly stated: As first, That his *Majesties* going to Hull, was only an endeavour to visit a Towne and Port of his; whereas it was indeed to possesse himselfe of the Towne and *Magazine* there, and to dispose of them as he himselfe should thinke good, without and contrary to the Advices and Orders of both *Houses* of *Parliament*, as doth clearly appeare by his Majesties owne Declaration of his intentions therein, by his *Messages* to both *Houses* immediately before and after that journey. Nor can we beleeve that any man that shall consider the circumstances of that journey to *Hull*, can think that his *Majestie* would have gone thither at that time, and in that *Posture* that he was pleased to put himselfe in towards the *Parliament*, if he had intended onely a visit of the *Towne* and *Magazine*. Secondly, it is said to be his Majesties owne *Towne*, and his owne *Magazine*: which being understood in that sense as was before expressed, as if his Majestie had a private interest of propriety therein, we cannot admit it to be so. Thirdly, (which is the main point of all) Sir *John Hotham* is said to have shut the gates against his *Majestie*, and to have made resistance with armed men in defiance of his *Majestie*: whereas it was indeed in obedience to his Majestie and his authority, and for his service and the service of the Kingdome, for which use onely all that interest is, that the King hath in the *Towne*; and it is no further his to dispose of, that he useth it for that end: And Sir *John Hotham* being commanded to keepe the *Towne* and *Magazine* for his Majestie and the Kingdome, and not to deliver them up, but by his Majesties authority signified by both *Houses* of *Parliament*, all that is to be understood by those expressions of his denying and opposing his Majesties entrance, and telling him in plaine termes he should not come in, was only this, That he humbly desired his Majesty to forbeare his entrance, till he might acquaint the *Parliament*, and that his authority might come signified to him by both *Houses* of *Parliament*, according to the trust reposed in him. And certainly if the Letter of the Statute of 25. *Ed.* 3. *cap.* 2. be thought to import this, that no warre can be levied against the King, but what is directed and intended against his person; or that every levying of Forces for the defence of the Kings authority, and of his Kingdome, against the personall commands of the King opposed thereunto, (though accompanied with his presence) is levying warre against the King, it is very farre from the sense of that Statute; and so much the Statute it selfe speakes (besides the

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authority of Book-cases, Presidents of divers Traitours condemned upon that interpretation thereof;) For if the Clause of levying Warre had been meant onely against the Kings person, what need had there beene thereof, after the other branch of Treason in the same Statute of compassing the Kings death, which would necessarily have implyed this, and because the former clause doth imply this, it seemes not at all to be intended in this latter branch, but onely the levying of Warre against the King, that is against his lawes and authority; and the levying of war against his lawes and authority, though not against his person, is levying warre against the King: but the levying of force against his personall commands, though accompanied with his presence, and not against his lawes and authority, but in the maintenance thereof, is no levying of warre against the King but for him. Heere then is our case: in a time of so many successive plots and designes of force against the *Parliament* and Kingdome; in a time of probable invasion from abroad, and that to begin at *Hull*, and to take the opportunity of seizing upon so great a *Magazine* there; in a time of so great distance and alienation of his *Majesties* affections from his Parliament, and in them from his Kingdome, which they represent, by the wicked suggestion of a few malignant persons, by whose mischievous Counsels he is wholly led away from his Parliament, and their faithfull advises and Councels, in such a time the Lords and Commons in *Parliament* command Sir *Iohn Hotham* to draw in some of the trained Bands of the parts adjacent to the Towne of *Hull* for the securing of that *Towne* and *Magazine*, for the service of his *Majesty* and of the Kingdome; of the safety where there is a higher trust reposed in them than any where else, and they are the proper Judges of the danger thereof.

This *Towne* and *Magazine* being intrusted to Sir *Iohn Hotham*, with expresse order not to deliver them up, but by the Kings authority signified by both *Houses* of *Parliament*; his *Majestie*, contrary to the advice and direction of both *Houses* of Parliament without the authoritie of any Court, or of any legall way wherein the Law appoints the King to speake and command, accompanied with the same evill Counsell about him that he had before, by a verball command requires Sir *Iohn Hotham* to admit him into the Towne, that hee might dispose of it, and of the *Magazine* there, according to his owne, or rather according to the pleasure of those evill Counsellours, which are still in so much credit about him: in like manner as the Lord *Digby* hath continuall

moll recourse unto, and countenance from the Queens Majesty in *Holland*; by which meanes he hath opportunity still to communicate his traytetous suggestions and conceptions to both their Majesties: such as those were concerning his Majesties retiring to a place of strength, and declaring himselfe, and his owne advancing of his Majesties service in such a way beyond the Seas, and after that resorting to his Majesty in such a place of strength; and divers other things of that nature contained in his Letter to the Queenes Majesty, and to Sir *Lewis Dives*, a person that had not the least part in this late busi. sse of *Hull*; and was presently dispatcht away into *Holland*, soone after his Maiesties returne from *Hull*, for what purpose we leave the world to judge.

Vpon the refusall of Sir *John Hotham* to admit his *Majesty* into *Hull*, presently without any due processe of Law, before his Majesty had sent up the narration of his fact to the *Parliament*, he was proclaimed Traitor, and yet it is said, that therein there was no violation of the Subiects right, nor any breach of the Law, nor of the *priviledge* of *Parliament*; though Sir *John Hotham* be a member of the *House* of *Commons*: and that his Maiestie must have better reason then bare Votes to beleeve the contrary. Although the Votes of the *Lords* and *Commons* in Parliament, being the great *Councell* of the *Kingdome*, are the reason of the King and of the Kingdome; yet these Votes doe not want cleare and apparant reason for them: For if the solemne proclaiming a man a Traitor signifie any thing, it puts a man, and all those that any way ayde, assist, or adhere unto him, into the same condition of Traytors, and drawes upon him all the consequences of Treason; and if this may bee done by law without due processe of law, the Subiect hath a very poore defence of the law, and a very small, if any Proportion of liberty thereby: and it is as little satisfaction to a man that shall be exposed to such penalties, by that declaration of him to be a Traitour, to say hee shall have a legall tryall afterwards, as it is to condemne a man first and try him afterwards: And if there can be a necessity for any such proclaiming a man a Traitour without due processe of law; yet there was none in this case: For his Majesty might have as well expected the Justice of the Parliament (which was the right way) as he had leisure to send them to demand Justice against Sir *John Hotham*. And the breach of *priviledge* of Parliament is as cleare in this case as the subversion of the Subiects common right: For though the *priviledges* of Parliament doe not extend to those cases mentioned in the declaration of

Treason, Felony, and breach of the peace, so as to exempt the Members of Parliament from punishment, nor from all manner of processe and triall, as it doth in other cases, yet it doth priviledge them in the way and method of their tryall and punishment, and that the Parliament should have the cause first brought before them, that they may judge of the fact, and of the grounds of the accusation, and how farre forth the manner of their tryall may concern or not concern the *priviledge* of Parliament: otherwise it would be in the power not onely of his Majesty, but of every Privat man, under pretensions of Treasons, or those other crimes, to take any man from his service in parliament, and so as many one after another as hee pleaseth, and consequently to make a Parliament what he will, when hee will, which would bee a breach of so essentiall a priviledge of Parliament, as that the very being thereof depends upon it: and therefore we no wayes doubt, but every one that hath taken the Protestation, will according to his solemne vow and Oath, defend it with his life and fortunes, Neither doth the sitting of a Parliament suspend all or any Law, in maintaining that Law which upholds the privledge of Parliament, which upholds the Parliament, which upholds the Kingdom: And we are so far from believing that his Majesty is the only person against whom treason cannot be committed, that in some sence we acknowledge he is the only person against whom it can be committed; that is, as he is King, and that treason which is against the Kingdom is more against the King, then that which is against his person, because he is King. For that very treason is not Treason as it is against him as a man, but as a man that is a King; and as he hath relation to the Kingdom, and stands as a person intrusted with the Kingdom, and discharging that trust. Now the case is truly stated & all the world may judge where the fault is, although we must avow that there can be no competent judge of this or any the like case but a Parliament, and we are as confident, that his Majesty shall never have cause to resort to any other Court or Course, for the vindication of his just priviledges, and for the recoverie and maintenance of his known and unboubted Rights, if there should be any invasion or violation thereof, than to his high Court of Parliament. And in case wicked Counsellours about him shall drive him into any other Course from and against his Parliament, what ever are his Majesties expressions and intentions, we shall appeale to all mens consciences, and desire that they would lay their hands upon their hearts, and thinke with

themselves, whether such *persons* as have of late and still do resort to his Majestie, and have his eare and favour most, either have been or are more zealous Assertors of the true Protestant Profession (although wee beleeve they are more earnest in the Protestant Profession, than in the Protestant Religion) or of the Law of the *Land*, the Lybertie of the Subject, and the Privilege of the Parliament. then the Members of both Houses of Parliament, who are insinuated to be the defertors, if not the destroyers of them; And whether if they could master this *Parliament* by force they would not hold up the same power to deprive us of all *Parliaments*, which are the ground and Pillar of the Subjects Libertie, and that which onely maketh *England* a free Monarchie.

For the Order of Assistance to the Committees of both Houses, as they have no directions or instructions, but what have they *Law* for their *Limits*, and the safety of the Land for their ends; so wee doubt not but all persons mentioned in that Order, and all his Maiesties good Subjects will yeeld obedience to his *Majesties Authority* signified therein by both *Houses* of *Parliament*: And that all men may the better know their duty in matters of that nature, and upon how sure a ground they go that follow the Judgement of *Parliament* for their guide, we wish them Judiciously to consider the true meaning and ground of that Statute made in the eleventh yeare of *Hen.* 7. cap. 1. which is printed at large in the end of his Majesties Message of the fourth of *May*. This Statute provides, that none that shall attend upon the King, and doe him true service, shall be attainted or forfeit any thing: What *was* the scope of this Statute? To provide that men should not suffer as Traytors for serving the King in his Warres according to the duty of their Allegeance: If this had been all it had been a very needlesse and ridiculous Statute: Was it then intended (as they may seeme to take the meaning of it to bee, that caused it to be printed after his Majesties Message,) that they should bee free from all crime and penalty that should follow the King and serve him in *Warre* in any case whatsoever, whether it were for or against the Kingdome, and the Lawes thereof? that cannot bee, for that could not stand with the duty of their Allegeance; which in the beginning of this Statute is expressed to bee, to serve the King for the time being in his Warres for the defence of him and the Land; and therefore if it bee against the Land, (as it cannot be understood to be otherwise if it be against the Parliament, the representative body of the

Kingdome;) It is a declining from the duty of Allegiance, which this Statute supposeth may bee done, though men should follow the Kings Person in the Warre: Otherwise there had been no need of such a proviso in the end of this Statute, that none should take benefit thereby that should decline from their Allegeance. That therefore which is the principle Verbe in this Statute, the *serving of the King for the time being*; which cannot be meant of a *Perkin Warbeck*, or any that should call himselfe King; but such a one as what ever his Title might prove, either in himselfe or in his Ancestors, should be received and acknowledged for such by the Kingdome; the consent whereof cannot bee discerned but by *Parliament*; the Act whereof is the Act of the whole Kingdome by the personall suffrage of the Peeres, and the delegate consent of all the Commons of *England*. And *Hen.* 7. a wise King considering that what was the Case of *R.* 3. his Predecessor, might by chance of Battell bee his owne, and that hee might at once by such a Statute as this, satisfie such as had served his Predecessor in his Warrs; and also secure those that should serve him, who might otherwise feare to serve him in the Warres, least by change of Battell that might happen to him also (if a Duke of York had set up a Title against him) which had hapened to his Predecessor: hee procured this Statute to bee made, that no man should bee accounted a Traytor for serving the King in his Warres for the time being, that is, which was for the present allowed and received by the Parliament in behalfe of the Kingdome: and as it is truely sugested in the preamble of the Statute. It is not agreeable to reason or conscience that it should be otherwise, seeing men should be put upon an impossibility of knowing their duty, if the judgement of the highest Court should not be a Rule and guide to them: and if the Judgment thereof should be followed, where the question is who is King? Much more, what is the best service of the King and Kingdome, and therefore those that shall guide themseves by the Judgment of *Parliament*, ought what ever happen to be secure and free from all account and penalties, upon the grounds and equity of this very Statute.

We shall conclude, that although those wicked Councellors about his Maiestie, have presumed under his Maiesties name to put that dishonour and affront upon both Houses of *Parliament*, as to make them the countenancers of Treason, enough to have dissolved all the bands, sinews of confidence betweene his Maiestie and his *Parliament*, (of

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whom the *Maxime* of the law is, That a dishonourable thing ought not to be imagined of them) yet we doubt not but it shall in the end appeare to all the world, that our endeavours have beene most hearty and sincere, for the maintenance of the true Protestant Religion, the Kings just Prerogatives, the Lawes and liberties of the Land, and the priviledges of Parliament; in which endeavours by the grace of God we will still persist, though we should perish in the worke: which if it should bee, it is much to bee feared, That Religion, Lawes Liberties and Parliaments, would not be long-lived after us.

FINIS.